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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,716	07/01/2003	Michael J. Siminovitch	IB-1866	3766

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EXAMINER	
WHITE, RODNEY BARNETT	

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/612,716	SIMINOVITCH ET AL.	
	Examiner	Art Unit	
	Rodney B. White	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-13* is/are allowed.

6)☒ Claim(s) *14-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's arguments filed 12/21/2004 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 14-15 is rejected under 35 U.S.C. 102(b) as being anticipated by Seils (U.S. Patent No. 1,706,634).

Seils teaches the structure as claimed including an armrest having a topside and an underside, a dynamic mechanical support structure attached to the underside of the armrest that applies a compliant upward force to the armrest to provide a dynamic counterbalancing support of a forearm resting on the armrest, the dynamic mechanical support structure comprising a flexible linkage or an articulated or pivoting assembly and an adjustable tensioning element connected to the linkage, the tensioning element being a spring, the armrest is rotationally or translationally attached to the mechanic support structure, wherein said dynamic mechanical support structure comprises a force transmitting mechanism and a force generating mechanism connected to the force transmitting mechanism, the force transmitting mechanism comprises an articulated or pivoting mechanical assembly and the force generating mechanism comprises a spring. (See Figures 2-3).

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Miller (U.S. Patent No. 4,069,995).

Miller teaches the structure as claimed including an armrest having a topside and an underside, a dynamic mechanical support structure attached to the underside of

the armrest that applies a compliant upward force to the armrest to provide a dynamic counterbalancing support of a forearm resting on the armrest, the dynamic mechanical support structure comprising a flexible. (See Figures 1-4).

Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (U.S. Patent No. 3,063,752).

Moore teaches the structure as claimed including an armrest having a topside and an underside, a dynamic mechanical support structure attached to the underside of the armrest that applies a compliant upward force to the armrest to provide a dynamic counterbalancing support of a forearm resting on the armrest, the dynamic mechanical support structure comprising a flexible linkage or an articulated or pivoting assembly and an adjustable tensioning element connected to the linkage, the tensioning element being a spring, the armrest is rotationally or translationally attached to the mechanical support structure, wherein said dynamic mechanical support structure comprises a force transmitting mechanism and a force generating mechanism connected to the force transmitting mechanism, the force transmitting mechanism comprises an articulated or pivoting mechanical assembly and the force generating mechanism comprises a spring.. (See Figures 1-6).

Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Holstensson (U.S. Patent No. 5,571,274).

Holstensson teaches the structure as claimed including an armrest having a topside and an underside, a dynamic mechanical support structure attached to the

underside of the armrest that applies a compliant upward force to the armrest to provide a dynamic counterbalancing support of a forearm resting on the armrest, the dynamic mechanical support structure comprising a flexible linkage or an articulated or pivoting assembly and an adjustable tensioning element connected to the linkage, the tensioning element being a spring, the armrest is rotationally or translationally attached to the mechanical support structure, wherein said dynamic mechanical support structure comprises a force transmitting mechanism and a force generating mechanism connected to the force transmitting mechanism, the force transmitting mechanism comprises an articulated or pivoting mechanical assembly and the force generating mechanism comprises a spring.. (See Figures 1-2).

Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura et al (U.S. Patent No. 5,927,815).

Nakamura et al teach the structure as claimed including an armrest having a topside and an underside, a dynamic mechanical support structure attached to the underside of the armrest that applies a compliant upward force to the armrest to provide a dynamic counterbalancing support of a forearm resting on the armrest, the dynamic mechanical support structure comprising a flexible linkage or an articulated or pivoting assembly and an adjusting tensioning element connected to the linkage, the tensioning element being a spring, the armrest is rotationally or translationally attached to the mechanical support structure, wherein said dynamic mechanical support structure comprises a force transmitting mechanism and a force generating mechanism connected to the force transmitting mechanism, the force transmitting mechanism

comprises an articulated or pivoting mechanical assembly and the force generating mechanism comprises a spring.. (See Figures 1-2 and 4-5 and specification).

Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hong (U.S. Patent No. 6,042,064)).

Hong teaches the structure as claimed including an armrest having a topside and an underside, a dynamic mechanical support structure attached to the underside of the armrest that applies a compliant upward force to the armrest to provide a dynamic counterbalancing support of a forearm resting on the armrest, the dynamic mechanical support structure comprising a flexible linkage or an articulated or pivoting assembly and tensioning element connected to the linkage, the tensioning element being a spring, the armrest is rotationally or translationally attached to the mechanical support structure, wherein said dynamic mechanical support structure comprises a force transmitting mechanism and a force generating mechanism connected to the force transmitting mechanism, the force transmitting mechanism comprises an articulated or pivoting mechanical assembly and the force generating mechanism comprises a spring.. (See Figures 1-3 and 5).

Claims 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Bouhuijs (U.S. Patent No. 6,464,183)

Bouhuijs teaches the structure as claimed including an armrest having a topside and an underside, a dynamic mechanical support structure attached to the underside of the armrest that applies a compliant upward force to the armrest to provide a dynamic counterbalancing support of a forearm resting on the armrest, the dynamic mechanical

support structure comprising a flexible linkage or an articulated or pivoting assembly and tensioning element connected to the linkage, the tensioning element being a spring, the armrest is rotationally or translationally attached to the mechanical support structure, wherein said dynamic mechanical support structure comprises a force transmitting mechanism and a force generating mechanism connected to the force transmitting mechanism, the force transmitting mechanism comprises an articulated or pivoting mechanical assembly and the force generating mechanism comprises a spring.. (See Figures 1-3 and 5).

Claims 1-13 are allowed.

Remarks

Applicant argues that the structure in the specification should be given patentable weight or, more specifically, that since "allowable subject matter was found in the specification" and that "a mean plus function claim covering such invention described in the specification", that such claims should be patentable. The references used in the above 102(b) and 102(e) are the *equivalents* to what is disclosed in the specification and, more specifically , what is defined in the claims. Claims 9, and now claim 1, are/were allowed or objected to as containing allowable subject matter because of the structure and/or limitations defined in those claims and not what was described or disclosed in the specification. That same structure or those same limitations are not

present in claims 14-16. Therefore, claims 14-16 are still rejected by the above references because they satisfy the structures and/or limitations defined in claims 14-16.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-

2276. (This number will be (571) 272-6863 when the Tech Center 3600 completes its move to the new U.S. Patent and Trademark Office facility in Alexandria, Virginia).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. (This number will be (571) 272-6856 when the Tech Center 3600 completes its move to the new U.S. Patent and Trademark Office facility in Alexandria, Virginia). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art unit 3636
March 1, 2005